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EXAMINER
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VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2424

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06/23/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,798	<b>Applicant(s)</b> WAKAHARA, TATSUYA	
	<b>Examiner</b> MICHAEL VAN HANDEL	<b>Art Unit</b> 2424	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-11,13-18,21-23,26-28 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-11,13-18,21-23,26-28 and 31-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/20/2010 has been entered.

### ***Response to Amendment***

2. This action is responsive to an amendment filed 1/20/2010. Claims **1, 3-6, 8-11, 13-18, 21-23, 26-28, 31-34** are pending. Claims **1, 6, 11, 31, 32** are amended. Claims **2, 7, 12, 19, 20, 24, 25, 29, 30** are canceled. Claims **33, 34** are new.

### ***Response to Arguments***

3. Applicant's arguments regarding claims **1, 6, 11, and 31-34**, filed 1/20/2010, have been fully considered but they are not persuasive.

Regarding claims **1, 6, 11, and 31-34**, the applicant argues that the combination of Panasonic and Lawler et al. does not teach means for displaying a content of the selected program when the selected program is a future program and means for switching to the selected program when the selected program is a present program. The applicant specifically argues that Panasonic does not appear to disclose means for displaying a content of the selected program

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when the selected program is a future program. The examiner respectfully disagrees. Panasonic discloses that the user uses arrow keys to move around the guide and select a program (p. 24, Selecting a Show). Panasonic further discloses that, as you move around, the program information changes to the show you have selected (p. 24, Selecting a Show section 2). Panasonic further discloses displaying later shows in dark blue (p. 24, Channel Guide Screen). In the example shown, Cheers is a future program shown in dark blue. Since Cheers is currently highlighted, the program information contains program information for Cheers, as shown in the Program Information part of the screen (p. 24, Channel Guide Screen). Since Panasonic teaches displaying program information for a future program (Cheers) when that future program is selected, the examiner maintains that Panasonic teaches means for displaying a content of the selected program when the selected program is a future program, as currently claimed.

Panasonic further discloses that if a user wishes to watch a channel or live television in the Channel Guide, they select a show that's on now (light blue listing) and press Select (p. 24, Selecting a Show). Since Panasonic teaches displaying a current program in response to a user selecting the current program, the examiner maintains that Panasonic teaches means for switching to the selected program when the selected program is a present program, as currently claimed.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Claims **11**, **13-15**, **26-28** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed towards a recording medium; however, the examiner notes that the specification is unclear as to what the medium is. For example, Applicant's specification states that the recording medium is constructed as a magnetic disc, an optical disc, a magneto-optical disc, a semiconductor memory or the like (paragraph 50 of published version of application US 2002/0078448). Given the "or the like" language, the examiner notes that the recording medium could be construed to be a signal, and that a claim directed to a signal *per se* does not appear to be a process, machine, manufacture, or composition of matter. The examiner recommends that Applicant amend the claim to recite a "non-transitory" recording medium. See **MPEP 2106.01** for guidance.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims **33**, **34** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims **33** and **34**, the examiner fails to find support in Applicant's specification for the phrase "without any additional input from the user." Applicant states that

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the features are supported in Figures 3 and 4 and the corresponding description. Figure 4 illustrates a program guide screen. Figure 3 illustrates a series of processes that can be executed by hardware or software (p. 4, paragraph 49 of published version of application US 2002/0078448). The examiner fails to find any place in either Figure 3 or the corresponding description indicating that some of the processes take place “without any additional input from the user,” as currently claimed.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims **1, 3, 5, 6, 8, 10, 11, 13, 15-18, 21-23, 26-28, 31-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Panasonic in view of Lawler et al.

Referring to claims **1, 6, 11, 31, and 32**, Panasonic discloses an information processing device/method/recording medium (TV/Hard Disk Recorder Combination - see Cover Page) for displaying an electronic programming guide, comprising:

- a display controller (inherent to TV/Hard Disk Recorder Combination in order to respond to commands from the remote control);
- a display being operable to have displayed thereon in response to a control signal from said display controller a cursor, a day of a week display portion which provides a display for each day of the week and representations of programs for a plurality of

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- channels having a plural number of past programs each of whose broadcast time is prior to a present time, a plural number of present programs each of whose broadcast time contains said present time, and a plural number of future programs each of whose broadcast time is subsequent to said present time, said representation of each of said plural number of past programs currently in the display being in a first color, said representation of each of said plural number of present programs currently in the display being in a second color different from said first color, and said representation of each of said plural number of future programs currently in the display being in a third color different from said first and second colors (p. 24 Channel Guide Screen), in which the cursor is movable to a representation of a desired program (p. 24, Selecting a Show); and
- means for enabling a user to select a desired day from the day of the week display portion and a program therefrom for programming a recording of the program or for watching or listening to the program (remote control)(p. 24, Selecting a Show 2 & p. 25, Recording a Show That is Currently Being Viewed & Recording a Single Upcoming Show);
  - means for displaying a content of the selected program when the selected program is a future program (the examiner notes that the Channel Guide Screen shows Program Information about the Later Show Cheers)(p. 24, Channel Guide Screen); and
  - means for switching to the selected program when the selected program is a present program (p. 20, Viewing Live Television 3), in which the representations of the programs are displayable on a first portion of the display and in which information of

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a respective program at which the cursor is located is displayable on a second portion of the display which is different from the first portion (the examiner notes that the Program Information is located in a different portion of the screen than the Shows, and that as the user moves around the guide, the Program Information changes to correspond to the show that the user has highlighted)(p. 24, Selecting a Show 2 & Channel Guide Screen), and in which a respective representation of a respective program is displayable in a fourth color which is different from said first, second, and third colors when the cursor is located thereat and prior to a selection of the respective program by the means for enabling (the examiner notes that upon selecting a program for recording, a solid red dot is placed next to the show that was selected)(p. 25, Recording a Single Upcoming Show 2).

Panasonic does not specifically disclose that, when the user selects a past program, an indication is displayed that said past program has been broadcast. Lawler et al. discloses an electronic program guide that displays current shows in a different color than past and future shows (col. 3, l. 56-62). Lawler et al. further discloses, in response to a user selection of a past program, displaying a past program options menu indicating to the user that the program is a past program (col. 14, l. 49-67 & Fig. 9). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the past program selection method of Panasonic to include displaying a past program options menu indicating that the program is a past program, such as that taught by Lawler et al. in order to provide a more user-friendly interface.

Referring to claims **3**, **8**, and **13**, the combination of Panasonic and Lawler et al. teaches the information processing device/method/recording medium as claimed in claims 1, 6, and 11,



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respectively, in which the enabling means enables the user to place said cursor on a respective representation of a desired program and to select the same (Panasonic p. 24, Selecting a Show 2 & p. 25, Recording a Show That Is Currently Being Viewed 2 & Recording a Single Upcoming Show 2).

Referring to claims **5**, **10**, and **15**, the combination of Panasonic and Lawler et al. teaches the information processing device/method/recording medium as claimed in claims 1, 6, and 11, respectively, wherein said display always includes a latest electronic program guide containing said present time (the examiner notes that the current time is displayed in the upper right hand corner of the Channel Guide Screen and that the Channel Guide lists seven days of up-to-date listings for all the TV channels the user receives)(Panasonic p. 19, Channel Guide & p. 24, Channel Guide Screen & NOTE).

Referring to claims **16**, **21**, and **26**, the combination of Panasonic and Lawler et al. teaches the information processing device/method/recording medium as claimed in claims 1, 6, and 11, respectively, in which the representation of the past, present, and future programs are displayable on the display with respect to time (the examiner notes that Past Shows are displayed in gray, Current Shows are displayed in light blue, and Later Shows are displayed in dark blue)(Panasonic p. 24, Channel Guide Screen) and in which the representations are shifted after a predetermined period of time (the examiner notes that when a show is past it is displayed in gray rather than light blue. When a future show becomes current, it is displayed in light blue rather than dark blue. The user can go back within the Channel Guide to see what programs have aired in the last 24 hours)(Panasonic p. 24, Selecting a Show & Channel Guide Screen).

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Referring to claims **17, 18, 22, 23, 27, and 28**, the combination of Panasonic and Lawler et al. teaches the information processing device/method/recording medium as claimed in claims 1, 6, and 11, further comprising means for displaying a message to the user that the desired program can not be selected when the desired program is a past program (the examiner notes that Past Shows are displayed in blue to indicate to the user that the show is over. These shows can no longer be selected for viewing or recording, because they have already been aired.)(Panasonic p. 24, Selecting a Show & Channel Guide Screen). Panasonic further discloses that the message is displayable only for a predetermined amount of time (the examiner notes that the user can go back 24 hours within the Channel Guide)(Panasonic p. 24, Selecting a Show).

Referring to claim **33**, Panasonic discloses an information processing device (TV/Hard Disk Recorder Combination - see Cover Page) for displaying an electronic programming guide, comprising:

- a display controller (inherent to TV/Hard Disk Recorder Combination in order to respond to commands from the remote control);
- a display being operable to have displayed thereon in response to a control signal from said display controller a cursor, a day of a week display portion which provides a display for each day of the week and representations of programs for a plurality of channels having a plural number of past programs each of whose broadcast time is prior to a present time, a plural number of present programs each of whose broadcast time contains said present time, and a plural number of future programs each of whose broadcast time is subsequent to said present time, said representation of each of said plural number of past programs currently in the display being in a first color,

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- said representation of each of said plural number of present programs currently in the display being in a second color different from said first color, and said representation of each of said plural number of future programs currently in the display being in a third color different from said first and second colors (p. 24 Channel Guide Screen), in which the cursor is movable to a representation of a desired program (p. 24, Selecting a Show);
- means for enabling a user to select a desired day from the day of the week display portion and a program therefrom for programming a recording of the program or for watching or listening to the program (remote control)(p. 24, Selecting a Show 2 & p. 25, Recording a Show That is Currently Being Viewed & Recording a Single Upcoming Show);
  - means, responsive to selection of the program by the user, for determining whether the selected program is a future program or a present program, and when the results of the determining indicate that the selected program is the future program for displaying a content of the selected program without any additional input from the user (the examiner notes that the Channel Guide Screen shows Program Information about the Later Show Cheers)(p. 24, Channel Guide Screen) and when the results of the determining indicate that the selected program is the present program for switching to the selected program without any additional input from the user (p. 20, Viewing Live Television 3 & p. 24, Channel Guide Screen), in which the representations of the programs are displayable on a first portion of the display and in which the information of the respective program at which the cursor is located is

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displayable on a second portion of the display which is different from the first portion (the examiner notes that the Program Information is located in a different portion of the screen than the Shows, and that as the user moves around the guide, the Program Information changes to correspond to the show that the user has highlighted)(p. 24, Selecting a Show 2 & Channel Guide Screen), in which a respective representation of a respective program is displayable in a fourth color which is different from said first, second, and third colors when the cursor is located thereat and prior to a selection of the respective program by the means for enabling (the examiner notes that upon selecting a program for recording, a solid red dot is placed next to the show that was selected)(p. 25, Recording a Single Upcoming Show 2).

Panasonic does not specifically disclose that, when the user selects a past program, an indication is displayed that said past program has been broadcast. Lawler et al. discloses an electronic program guide that displays current shows in a different color than past and future shows (col. 3, l. 56-62). Lawler et al. further discloses, in response to a user selection of a past program, displaying a past program options menu indicating to the user that the program is a past program (col. 14, l. 49-67 & Fig. 9). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the past program selection method of Panasonic to include displaying a past program options menu indicating that the program is a past program, such as that taught by Lawler et al. in order to provide a more user-friendly interface.

Referring to claim **34**, Panasonic discloses an information processing device (TV/Hard Disk Recorder Combination - see Cover Page) for controlling display of an electronic program guide, comprising processing means (inherent to TV/Hard Disk Recorder Combination in order

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to respond to commands from the remote control) for selectively producing data for display on a display device representing an electronic program guide (p. 24, Selecting a Show & Channel Guide Screen) having a day of a week display portion which provides a display for each day of the week and having programs included in the guide (p. 24 Channel Guide Screen), and a user control for selecting the program guide and a desired day from the day of the week display portion and a program or programs therefrom in the guide (remote control)(p. 24, Selecting a Show 2 & p. 25, Recording a Show That is Currently Being Viewed & Recording a Single Upcoming Show), in which the processing means is arranged so that a past program whose broadcast time is prior to a present time, a present program whose broadcast time contains the present time and a future program whose broadcast time is subsequent to the present time are controlled to be displayed with different colors (p. 24 Channel Guide Screen), said information processing device further comprising means, responsive to selection of a selected program by a user, for determining whether the selected program is a future program or a present program, and when the results of the determining indicate that the selected program is the future program for displaying a content of the selected program without additional input from the user (the examiner notes that the Channel Guide Screen shows Program Information about the Later Show Cheers)(p. 24, Channel Guide Screen) and when the results of the determining indicate that the selected program is the present program for switching to the selected program without any additional input from the user (p. 20, Viewing Live Television 3 & p. 24, Channel Guide Screen).

Panasonic does not specifically disclose that, when the user selects a past program, an indication is displayed that said past program has been broadcast. Lawler et al. discloses an electronic

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program guide that displays current shows in a different color than past and future shows (col. 3, l. 56-62). Lawler et al. further discloses, in response to a user selection of a past program, displaying a past program options menu indicating to the user that the program is a past program (col. 14, l. 49-67 & Fig. 9). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the past program selection method of Panasonic to include displaying a past program options menu indicating that the program is a past program, such as that taught by Lawler et al. in order to provide a more user-friendly interface.

10. Claims **4**, **9**, and **14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Panasonic in view of Lawler et al. and further in view of Lemmons.

Referring to claims **4**, **9**, and **14**, the combination of Panasonic and Lawler et al. teaches the information processing device/method/recording medium as claimed in claims 1, 6, and 11, respectively. The combination of Panasonic and Lawler et al. does not teach that the first, second and third colors are set according to the user's favorite colors. Lemmons discloses permitting a user to select colors to associate with programs or program attributes, such that the related programs are displayed in the user-specified colors within a by-time program listing (col. 5, l. 45-52; col. 6, l. 3-21, 33-50; col. 7, l. 33-53; col. 9, l. 44-50; & Figs. 5-7, 9, 10, 13). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the coloring of program listings in the combination of Panasonic and Lawler et al. to include permitting the user to select colors to associate with the program listings, such as that taught by Lemmons in order to provide a more sophisticated way in which a user may

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inform a program guide of the user's preferences, so that the program guide can more accurately highlight programming of the type the user likes (col. 1, l. 56-59).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Van Handel/  
Examiner, Art Unit 2424

6/20/2010